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A short commentary upon the Dutch Address to the British People

BY

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Professor at Leyden-University.

AMSTERDAM — J. H. DE BUSSY — 1899.

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A Committee of loyal subjects to Her Majesty the Queen of the Netherlands, feeling deeply and seriously aggrieved by the ever growing rumours of an impending war between the government of your glorious Queen VICTORIA and the Dutch Republic of South-Africa, has ventured upon a strong appeal to your high-minded sense of justice.

Do not think we have been impelled to this act of ours by such a thing as race-feeling, by a partial preference for the Boers who speak our tongue and bear Dutch names? Nothing of the kind. Our fellow feeling for our cousins in South-Africa is duly counterbalanced by the high esteem in which we hold our neighbour nation across the sea, the grand people of the British isles, that has set the ever memorable example to all mankind of how a national community may politically come of age without consuming its moral and intellectual forces in fruitless party-strife. Really, if mere national sympathy were our motive, we might well be in doubt, which side to take.

That there has been no question of hesitation is explained by this simple fact; we have been prompted by no personal motive; we have acted upon an ideal one — our deeply inborn sense of right

and wrong. And as that feeling was our only prompting, so it has been our only argument. We cannot believe that the cynical threats and brutal cries for war, which at present predominate in the speeches of your leading statesmen and in the articles of your daily press, give adequate utterance to the real feelings animating the bulk of the British nation. Are, then, the noble strings of English hearts, upon which to the world's relief your deeply mourned GLADSTONE so often masterfully played, almost all broken? At least the half of them, we think, are only mute. Your country is suffering for the moment from one of those strange influences whereby a really small but presumptuous minority hypnotises almost the whole of its adversaries into a bashful silence. We have therefore dared give expression to the firm hope, that of those who have been silent up to now by far the greater half would homologate our remonstrances. And further we intended, within the humble measure of our feeble powers, to strengthen that undaunted group of British champions for a policy of peace and patience with Transvaal, which even your colonial secretary, in answer to Sir H. CAMPBELL BANNERMAN, has denounced beforehand as able to overturn the whole fabric of his unjust designs.

Every sensible man who has taken due notice of your present government's proceedings with the South African Republic, will have been vividly struck by this important fact: those are not the proceedings, that is not the tone to be used between

members of the international family. The diplomatic intercourse of modern times is animated by the spirit of liberty, equality and fraternity. Of Liberty first, — in the society of civilised states every member shall, as a rule, be free to work its own salvation in its own way. Then follows Equality, — the right to the aforesaid freedom belongs equally to each and all; the principality of Montenegro is quite as independent, according to the law of nations, as the empire of the Tsars; by virtue of that principle, anything, that is either lawful or forbidden to one nation, is equally lawful or forbidden to all others. And lastly we have Fraternity, — the treatment, every one of the subjects of international law owes to a fellow-subject of that law, ought normally to be, not the treatment of an inferior by his master, but rather the treatment of a brother by his brother; in international relations different forms of ascendency and subjection are certainly not unknown; but the presumption is for mutual treatment upon an equal footing; the state, which claims a certain superiority over a neighbouring state, has to make the point clear by conclusive proof; and that which is thus proved to exist in the teeth of the general rule should never be extended to consequences, not expressly stipulated.

Now, — once more — the attitude, which some years ago, your government deliberately assumed towards the President and the Volksraad of the South-African Republic, has been on every point, not the fraternal attitude, which should be the normal one in matters of this kind, but the

masterful tone, which the law of nations only allows in exceptional cases. In saying this we would not specially allude to this sample or that among the crude amenities of language your present colonial secretary seems so fond of; those are rather signs of the time which prefers the straightforwardness of the self made dilettante to the flattering insincerities of the old school diplomatists. No, what we hint at, is a continuous abnormity. Since the London-convention of 1884 a new era has opened in the history of South-Africa. From that moment the tale of the correspondence between your Imperial dignitaries and the State secretary of the Republic has been a long and monotonous tale of disagreements and quarrels, now about the correct interpretation of one article, and then about the true meaning of another. What is the right moment, at which a treaty between the Republic and a foreign state ought to be called "completed", — the moment, that is, for the republican authorities to deliver "immediately" (see article IV) unto Her Majesty's Government a copy of the said treaty? Were the laws, by which the Volksraad intended to regulate the admission and the exclusion of aliens, at variance with the liberal principle, sanctioned by article XIV? Should the Republic's accession to the convention of Geneva have been submitted, in accordance with article IV, to Her Majesty's approval? Was KRÜGER's suspension of the "Critic" newspaper another device of the president's cunning in order to avoid the provisions of the convention? Thus, within a few years, a series of differences have arisen in close

succession. It is impossible for the ordinary reader not to scorn at last the spirit of malignant fault finding, which pervades the whole of the said correspondence on the Imperial side. Yet, that is not the point now. The thing we want to insist on is this, that upon every one of those questions Her Majesty's government has, openly or implicitly, declined the acknowledgment of the equal right of the republican authorities to have a contrary opinion of their own, yea, that it has at last accentuated the "bearing" of that unwillingness by formally rejecting President KRÜGER's proposal — so perfectly in accordance with the principle of international equality — to refer to arbitration all those points of dispute relating to interpretation.

And a more jarring anomaly still has since occurred. Thus far the chief of your colonial office had been careful always to assume a *tender vigilence* for the strict adherence on both sides to the convention-articles. But even that remnant of juridical prudery has since been gradually dropped in your government's dealings with the question of the "Uitlanders". You know the "grievances" with which that most honorable set of men, a part of the gentlemen speculators and mine-magnates at the "Rand", has lately troubled the world. As summarised by their Imperial advocate, they include the following: the surly jealousy of the Transvaal-oligarchs in keeping back as much as they can from the hands of their honorable guests the benefits of naturalisation and the franchise; the postponement of urgent educational reforms; mismanagement of the finances; restrictions on the right of

public meeting; the policy of granting State-monopolies; the Volksraad's unwillingness to face the labour-question; its railway policy; and lastly the insufficiency and wilfulness of the Republican police. Whatever grounds there may be for some of those grievances, — the relative suddenness of the social transformations the Boer-government has had to cope with, could not otherwise than render a great many temporary defects almost inevitable, — there can be no doubt as to the only suitable form the remonstrances of your Imperial authorities should ordinarily have taken, if they thought fit to mind and mend those things. A state's meddling with its neighbours home-affairs is as a rule not permissible, unless it keeps to friendly suggestions. At first your dignitaries kept to that tone. The proceedings of Her Majesty's High Commissioner at the Bloemfontein conference were on the whole correct. But the threats and brow-beatings, by which the suggested reforms have afterwards been urged upon the president and his fellow-citizens, are entirely in disharmony with the elementary traditions of international comity. There was no longer a brotherly discussion as between free and equal subjects; on your side your formerly friendly advice has degenerated into a climax of commands as from a superior to his subordinate.

We are well aware of the arguments by which your rulers have tried to justify that twofold departure from the recognised "law of nations". They centre in two words. As to the endless disputes on the proper interpretation of some

convention-articles, every appeal made by the Republican State-secretary to the general principles of international law has been since October 16, 1897 contemptuously put down on the Imperial side in the name of Her Majesty's pretended "suzerainty". And as to your government's presumptuousness in advocating the claims of the "Uitlanders", this, it is said, is quite lawful on account of your dominant position as "the paramount power" in South Africa. We know those two catchwoods. Like any feeble orator who has found a high sounding term with which he can hide the flaw in his logic, your colonial secretary delights in repeating his assertions to satiety. But we venture to assert that scarcely ever was there a further reaching pretence supported by more sophistical sham-logic. And we now go on to prove that assertion.

We do not wish to quarrel about words. "What's in a name?" So, in starting upon our argument, we grant that every Briton has the unrestrained liberty to call his gracious Queen the "Suzerain" of the Transvaal, and Great Britain the "paramount power" of the southern part of Africa. Provided we agree upon the sense of both expressions. It is, to begin with, an undeniable fact, that the South-African Republic does not enjoy complete independence. The convention of 1884 contains in article IV the provision that the "Republic will conclude no treaty or engagement with any state or nation other than the Orange Free State, nor with any native tribe, until the same has been approved by Her Majesty the Queen." Do you insist on account of that remnant of tutelage, in which

your government still holds the Boers-State across the Vaal-River, to continue speaking of "suzerainty", be it so. The sense of that feudal term, as applied to modern relations, is necessarily vague; therefore any dispute as to the exact limits of its legitimate use must needs fail to be decisive. Here we should allow some latitude of application. It is, further, an undeniable fact as well, that in South Africa, the territories which your Imperial government holds under its sway, are a great deal larger, the populations, over which it rules, by far more numerous than the area covered by the Dutch republics and the number of souls protected by their flags. Again, then, do you mean on account of those quantitative differences to maintain your use of that pompous "paramount power," be it so. The term has not even a flavour of a juridical sense: and so it would be madness to quarrel about its application, as if it were to be defined with the strictness of jurisprudence. Only, if by your persistent adherence to that twofold terminology you intend to make us believe that, apart from the precise case specified in the aforesaid article IV, there exists such a thing as a *general* ascendency of Great Britain, a *general* inferiority of the Republic, which *beforehand* precludes the latter from being treated by its mighty neighbour upon an equal footing *in any respect*, if that be your intention, no impartial lawyer will hesitate to challenge that conclusion as manifestly at variance with the general rule above stated: "Any sovereign who claims a certain superiority over his neighbour, has

to make the point thoroughly and wholly clear by a conclusive proof."

True, the "proof" which your colonial secretary has tried to adduce, would not stand the test. "By the Pretoria-"convention of 1881" — thus runs his argument, — "Her "Majesty as Sovereign of the Transvaal Territory accorded to "the inhabitants of that territory complete self-government "subject to the suzerainty of Her Majesty, Her Heirs and "successors, upon certain terms and conditions and subject to "certain reservations and limitations, set forth in 33 Articles; "and by the London convention of 1884 Her Majesty, while "maintaining the preamble of the earlier instrument, directed "and declared that certain other articles, embodied therein "should be substituted for the articles embodied in the con-"vention of 1881. The articles of the convention of 1881 "were accepted by the Volksraad of the Transvaal-State, and "those of the convention of 1884 by the Volksraad of the "South African Republic. Under these conventions therefore "Her Majesty holds towards the South African Republic the "relation of a Suzerain". And hence all "arguments, based "on the general principles of international law as applied to "ordinary treaties between independent powers and on the "legislation of other nations do not, in the view of Her Majesty's "government, apply to the case under consideration."

Let us however subject that sample of ministerial dialectics

to a brief critical survey. — Firstly it strikes us that the general thread of the argument lacks consistency. Granted for a moment the correctness of the secretary's historical statements; even then reason objects to the stringency of the conclusion. Suppose: a potentate, who has been my sovereign till now, converts his sovereign right into the minor prerogative of suzerainty by formally granting to me a certain sphere of autonomy, circumscribed within well defined limits and subject to carefully determined conditions. Why then should such a grant logically imply that he who made it had reserved to himself the exorbitant privilege of being in all the disagreements, which henceforth might rise between himself and his vassal, party and supreme judge at the same time? Thus never even in feudal ages was the nature of vassalage understood. You cannot, for instance, be unaware of the celebrated article XXXIX in your own "magna charta", so pregnant notwithstanding the barbarisms of its Latin text. "No free man", thus it ran, "shall be laid hands on, nor be imprisoned, nor stripped of "his goods, nor be outlawed, exiled, or put to death, *neither "shall we, be it personally or by proxy, make war upon him, "unless it be in accordance with a lawful judgment of his peers*, "or with the common law". Such are the concessions King John made to those who had sworn him fealty! And you would make your Queen grant less unto Her Vassal! No, human reason, which abhors the idea of suffering the left hand virtually to withdraw what, the moment before, the right hand has granted, will never interpret a liberal document in that

way. If between a suzerain power and its Vassal-state there arises a conflict as to the obvious sense of any of the bondage-terms, the law of nations, in the absence of any express provision to the contrary, places on a level the contentions of both parties.

Thus our first consideration already upsets the whole argument. Now secondly we go on to test the value of your colonial secretary's historical reconstructions.

And here we find, that the minister's views as to the character of the Pretoria-settlement and as to the real meaning of the London-convention, by which the former was removed, are equally fantastical. To begin with, let us consider the document of 1881. Upon a superficial reading its wording affords to the above cited interpretation a semblance of truth, in as much as its preamble indeed "*subjects* the complete selfgovernment", graciously bestowed upon "the inhabitants of the Transvaal territory, *to the suzerainty of Her Majesty*, Her Heirs and successors". On closer inspection and reflection, however, even that semblance vanishes. What, we ask, does that term "the suzerainty of Her Majesty" mean? There were, indeed, among the following articles a good many provisions by which the concept, suggested by that word, obtained a solid sense. Her Majesty reserved to herself a threefold right, which seriously restricted the complete selfgovernment, as granted in the preamble. There was first: the right, from time to time to appoint in the Transvaal a British resident. Next came: the right to move

troops through the Transvaal territory in case not only of war, but even of danger of war. And then there followed — last but not least —, the control of the Vassal-state's external relations. That then, the reserve made in the preamble, viewed in the light of those subsequent stipulations, was to be understood in a very material, a really concrete sense, no one, endowed with sound brains, will be tempted to deny. But what further? What *other* prerogatives could the concept of suzerainty even then contain *over and above those, which the articles expressly summed up?* Perhaps, upon a brief review of the endeavours students of international law have made to specify the contents of the concept now under consideration, we might discover a single ever-present and comparatively well defined element. It is however a duty of the suzerain, not a right: the duty to protect the Vassal-state, if needs be. As to the suzerain's right, it, most frequently, though not always, centres in this point, that he shall in some way control his Vassal's dealings with foreign powers. Yet if among the men of science we should inquire as to the proper limits of that right of control, all of them would agree that these are too multiform and varying to admit of a universally valid definition. They therefore must depend in every given case upon the particular provisions made. And so your own *government, at that time*, explained the term when in a despatch of your colonial secretary's most wise and discreet predecessor, the Earl of Kimberley, it stated in explicit terms this: "Entire freedom of action will be accorded to the

"Transvaal-Government, so far as is not inconsistent with "the *rights expressly reserved to the Suzerain Power.* The "term "suzerainty" has been chosen as most conveniently "describing superiority over a State possessing independent "rights of Government, subject to reservations *with reference* "*to certain specified matters.*"

Hitherto this much, we presume, has been made clear. Even under the Pretoria-settlement with its carefully constructed preamble, presenting the independence of the Transvaal as a gracious boon, the object and outcome of a one-sided royal declaration, and expressly reserving to Her Majesty the suzerain right, even then the said reservation conferred upon the imperial government no other prerogative, no, not a single one, except those specially provided for in the subsequent articles. And now, what shall we have to think of the position of affairs created by the London-treaty, which in 1884 took the place of the arrangement we have already analysed?

Let us first look at the circumstances under which the birth of that new agreement took place. In 1883 a Transvaal-deputation went from South Africa to London in order to settle anew with the British government the relations between Great Britain and the inhabitants of the Transvaal-territory. The first document deserving attention in the correspondence between the delegates and the colonial secretary, the Earl of Derby, is a memoir drawn up by the South-African triumvirate and dated November 14. There the three patriots undertook to expound freely the grievances

of their countrymen, and they began with the sincere avowal that they *not only* objected to *some decisions of the former settlement* but to *that settlement in its entirety*. Then, first of all among the things which have made the Pretoria convention odious to them as a whole, we find mentioned this point, that the said convention has not been the outcome of free negotiations between both parties, but a one-sided document, made up by a Royal commission, wherein, notwithstanding their urgent request, the Boers were not represented. After having enumerated still other objections to the existing state of things, and especially a series of practical difficulties to which it has given rise, the deputies wind up by asking his Lordship that the old Sand-river-convention of 1852, which originally sanctioned the country's independence, may be taken as the basis for all further negotiations.

Lord DERBY did not fall in with that proposal. He thought it impossible, — so runs his answer, dated November 20 —, that the Sand-river-convention could still be kept alive, or that, if revived, it could meet actual demands. And his chief argument for supporting the latter assertion was that the so called Sand-river-convention had been, exactly like the Pretoria arrangement, not a treaty between two contracting powers, but only a declaration by the Queen, assented to by some persons then her subjects, concerning the conditions upon which Her Majesty was willing to grant them autonomy. As for the rest — thus wrote the minister — Her Majesty did not decline the idea of *framing a new convention*

as preferable to a revision of the existing one; in short he thought it most desirable that, if the convention of 1881 were to be abolished, *a new document* should supersede the old one.

Now, after taking due notice of that correspondence, please read again the historical part of your colonial secretary's argument, and chiefly his suggestion that the South African Republic still owes to this day its independence to the gracious benevolence of Queen VICTORIA, since even the London-negotiations have not resulted in the removal of the former instrument as a whole, but only in the substitution of a new series of articles for the old one. Compare that theory with the categorical utterances of both the negotiating parties. Verily, if your present secretary's statement should prove to be supported by the text, both Lord DERBY and KRÜGER must have been most unlucky in their choice of the final redaction. For this much at least does not bear gainsaying: they were unanimous in this twofold aim: first that the settlement to come should be a bilateral compact; and secondly, that it should not only amend its forerunner, but totally supersede it.

We go on and inquire into what has been written about the all-important question — from your minister's standpoint — the question concerning the term "suzerainty". Should it be maintained or should it be left out?

Foremost but one among the final proposals, the triumvirate in its above cited letter made to the man at the wheel in Downing street, ranked this, that by the new compact every tie between Transvaal and England should not be broken,

but that instead of the condition of political dependence, in which the country had hitherts stood to the British crown, it should henceforth become *a freely contracting power*. Since then, there has been much friction, much spending of ink and paper over and over again. His Lordship asked the other party to hand over a scheme. When it was made, it did not please him. Nor could he thoroughly understand what ties the South Africans meant should subsist between their country and Great Britain. After due investigation of that point and after long and tedious squabbling regarding the frontier- and the native-problem, the noble Lord himself on February 15, 1884 at last produced what he entitled as "a draft of *the new convention which Her Majesty's Government propose in substitution for the convention of Pretoria.*" The first page of that draft was headed by a note, which ran as follows: "The words and paragraphs bracketed or printed in italics are proposed to be inserted, *those within a black line* are proposed to *be omitted.*" Immediately below there followed *the preamble of '81*, containing the ominous word "suzerainty"; and, lo, it stood *within a black line*, and was, in consequence, according to the noble author's intention, to be omitted. The new preamble, which on the evidence of its brackets should take the old one's place, contained the weighty term no more. Could the colonial secretary of '84 have manifested his real meaning on this point more categorically than he did?

Again, grasp of these well proved facts, and then remember your minister's statement that the instrument of '84

maintains the suzerainty proclaimed three years before. If it were so, what wretched scribblers then the authors of the London-convention must have been, to make, on this point too, a declaration so diametrically at variance with what they meant to state!

It is time to go to the text. What lesson do we learn there? We begin by stating the simple fact, about which there is no strife, that the articles of '84 have for the greater part removed from the Boer-government the burden of British meddling and control, which the articles of '81 had imposed upon its shoulders. The right to appoint a British resident is no longer spoken of. The right to move troops through the Transvaal is passed over in silence. The strict supervision of its foreign relations has disappeared. The only vestige of all those rights left is the prerogative, reserved to the Queen, of the right to veto any engagement the Republic may have concluded with an alien power, except the Orange Free State, within six months after receiving the copy. Let it then for a moment be conceded that the paradox which forms the basis of your Colonial office's interpretation of the text (the maintenance, we mean, of the old preamble and the subsistence, of course, of the suzerainty-claim) is true. What do you gain even out of that concession? Nothing. For then there would remain — under the London treaty as well as under the Pretoria-arrangement — this principle which cannot be shaken: that *the only rights, a suzerain power as such, may lay claim to are those expressly*

reserved to that power with reference to certain specified matters. And as, since '84, there exist no reservations of the kind but only this: Her Majesty's right of Veto, even in the above made supposition the whole of your suzerainty-claim would come to that, and to that only.

Thus, strictly speaking, we need not even refer to the untenable nature of the said ministerial paradox. Whether that parodox be true, or false, the ultimate conclusion is the same. But too much does no harm. And so we proceed to demonstrate even the superfluous: the weakness of that corner-stone in your colonial secretary's argument.

It is, to begin with, a piece of absurd logic. In every arrangement the preamble and the articles stand related to each other as premiss and conclusion. Well then, if so, what must the Right honorable gentleman's logic needs imply? It implies a total oversight of the vital tie which, in connecting both those unsubstantial parts of a judgment, makes out of them, what neither was before, a selfconsistent whole. Without the "therefore", the "whereas" has no meaning of its own; it is nothing. Strike out the former, and the latter vanishes into naught. Consequently, if any one, having first made up his mind in a certain way, afterwards makes a change and gives new arguments for his new course, you ought, indeed, to have very strong reasons for the improbable belief, that he intends to stick to his previous premiss together with the other one in which he gives an account of his altered line of conduct.

And in the case before us, we are at a loss to detect those strong reasons. Yea more: the very wording of the new preamble defies the minister's statement. For it declares, *not* that *new articles as such* shall take the place of old ones, but that "*the following articles of a new convention*" shall be substituted for those, embodied in the Pretoria-settlement. That is conclusive. It is proclaimed that the "convention" is to be renewed. Any limitation of that renewal to the articles as such forces upon the last words of the passage cited an argument "a contrario", as far fetched as such an argument can be. Interpretation of that kind has a bad flavour of unfairness among lawyers. But here, where cogent reasons on your side were to be adduced to strengthen an assertion which was almost incredible, the latter, not finding any other support but such a sham-argument, defeats itself.

The old preamble falling, there falls at the same time every conclusion, deduced from its pretended maintenance. There falls, primarily, the appeal to the special, the, so to say, "precarious" nature of Transvaal independence, as though it were a benefit, one-sidedly bestowed upon the Boers by Royal graciousness. As clearly as the preamble of '81 characterised the arrangement which it headed, as an Imperial grant, to be accepted by the receiving party without discussion, the new one, on the contrary testifies to the bilateral character of what follows. There: a promise made by the Queen to "the inhabitants of the Transvaal territory". Here: a convention in the full sense of the term, signed by the High Commissioner,

on behalf of Her Majesty and by the triumvirate "on behalf of the Transvaal state, which shall herein after be called the South African Republic". And there falls, secondly, the whole framework of vague pretensions which had been built upon the express use of the term "suzerainty", that term occurring nowhere in the London-instrument, neither in its preamble, nor in its articles. That even the fourth article, which sanctioned Her Majesty's right of Veto and where the mentioning of Her suzerain power might well have taken place, did not allude to the ambiguous title, points out conclusively, if ever an omission has a meaning, that the new convention declines to back any further claims to an undefinite nebulous ascendency, which from the use of that term might have been deduced. So then, the South African delegates were absolutely at one with the text of the document, when at the end of their report, addressed to the Volksraad, they summarised the chief results of their diplomacy in these words: "the convention is wholly two-sided and does away with British Suzerainty".

No Imperial protest followed upon that public statement. And up to your minister's fatal despatch of October 16 1897 there happened nothing on your part, which might have been construed as indicating that you intended again to stretch imperial ascendency over the Boer-republic far across the limits of article IV. Nay more, there happened one event at least in that interval, by which beforehand the unwarranted assumption, to be afterwards put forth in the said despatch, was branded as unlawful.

We have above made this point clear: as far as modern lawyers have undertaken to specify the contents of the suzerainty-concept, they might perhaps be said at the utmost to have hit upon a single ever-present and comparatively well defined element: the suzerain's duty to protect the vassal-state, if needs be. Thence: suzerainty, if the word may claim a definite meaning at all, supposes on the part of the vassal a sort of incapacity for self-defence. It is inconsistent with any acknowledgment of his sufficiency on that point. Now, mark, in consequence of a convention, which took place between your government and President KRÜGER in 1894, the native tribe of the Zwasis as well as their territory has been placed under the protectorate of the South-African Republic. You have not only not objected to that arrangement; you have been a party to it. But thereby you have implicitly avowed, that your neighbour, whom you thought fit to be a protector over others, must a fortiori be judged able, if necessary, to protect himself. In other words: you have acquitted him of the essential shortcoming, which should have made him a fit object for the exercise of suzerain power.

To sum up, we arrive at this statement. *But for the unique restriction, imposed upon its freedom by the royal- veto-article, the South-African Republic is proclaimed by the law of nations a state as independent as the United kingdom itself.* Your colonial Secretary is *wrong* in denying that. He would be wrong in urging his denial upon the other party, even if all the historical

premisses, upon which it is based, were correct. He is doubly wrong in building upon the vague pretence of British suzerainty a system of indefinite assumptions, which that anachronistic term cannot in any case sustain. And he is trebly wrong in overlooking the fact that since the London convention even that hollow foundation of his fabric has consciously been done away with. That, then is our conclusion. And we herewith challenge all the ablest lawyers of your great country to overturn it if they can. Abuse it, scold at it, hurl at it some absurd and rabid invective, aye, that the firebrands amongst you may. And your all too renowned City-organ, for instance, will certainly not lose the opportunity. But refute it with unassailable logic you can not. Or if you think you can, come forth and try.

And, what is worse still: your colonial secretary *commits* wrong, in acting up to his denial. We do not wish to speak any longer about the Republic's alleged trespasses in the concluding of treaties, in acceding to the Geneva-convention, in appointing a consul-general at Capetown, and all other ungenerous cavillings, by which your government has again and again tried President KRÜGER's good humoured patience. We will only pause at that conflict, which has now for some time been kindling into *the* burning question: the "Uitlanders"-affair. There, for the moment, smoulders the "casus belli". Still even there the injustice of your government's proceedings is equalled only by their unfairness.

Upon the moral aspect of the case we mean to dwell only

for a moment. We simply beg you to remember the plain and self-evident terms, in which your own great moralist SAMUEL CLARKE has stated the very-first of his "rules of right-eousness": "Whatever I judge reasonable or unreasonable that "another should do for me, that by the same judgment I "declare reasonable or unreasonable, that I should in the "like case do for him". According to this rule, we ask you to put yourself in President KRÜGER's place. We are far from approving every step, the republican authorities have taken in this matter. Nor should we, in particular, be willing to endorse the President's misgivings, which he so strongly stated at the Bloemfontein-meeting, as to the danger of his fellow citizens being overruled by the enfranchised newcomers. As far as we can judge, we do not share those apprehensions. Yet it would be unreasonable to forget that "The Grand Old Man" of South-Africa does not by any means stand alone in making those predictions. Another man of note has fallen in with them; the very same, who, strange to say, seems likely for some years, in the unsteady fluctuations of your Hero worship, to succeed Mr. GLADSTONE; we mean Mr. CECIL RHODES. "There will be peace", he lately said in a remarkable speech to his fellow members in the Cape parliament: "there will be peace, because "Mr. KRÜGER, yielding to irresistible force, will climb down "and be obliged to virtually deliver the Transvaal into the "hands of the Uitlanders". Forewarned is forearmed. Is it, then, to be wondered at, that the grey-haired President, who

has to climb down, takes to heart the brutal warning of his country's enemy, and asks for leave to pause before entering upon his inevitable descent?

A great deal has been said about the general respectability of the chief Uitlanders, the leading men in the Gold-district. We do not need to inquire into the justice of those sayings. We shall most willingly think the best of the whole cosmopolitan medley that crowds the town of Johannesburg, preying upon the goldfields, or, as it sometimes seems to happen, upon the European shareholders in the same. We venture to ask only a single question. Does such a chequered greedy population, be its members individually ever so respectable, afford the sound material, which a thriving, self-governing community stands so much in need of? Is a moral atmosphere, saturated chiefly with ideas of golddigging speculating and stockjobbing, a wholesome "milieu" for favouring the development of such elementary civic virtues as public spirit, love of equity, and sense of justice? A striking passage occurs in the Johannesburg "Star" of May 15 1897. It occurs in a report of the proceedings of the "Industrial commission", to wit in the Examination of a Nabob among goldfield-millionaires: Mr. J. B. Robinson. In his discussion with the President that man made public profession of a naïve selfishness, a blunt impassiveness as to the rightful share, which may be claimed for the public welfare from the enormous profits of an exceptionnally prosperous industry, that one might well be justified in thinking, if such is the spirit of a magnate, what must be the narrow-mindedness of the humbler ones! And,

forsooth: does any one of you presume to call the plutocratic regiment, which has so heavily weighed upon KIMBERLEY, so encouraging a precedent?

The foregoing remark leads on to a consideration of a somewhat higher order. It is this. We note, not without wonder, a radical difference between the sound methods, your country has for centuries acted upon in dealing with the franchise-problem at home, and the wild hurry of adventurous reform, it would now like to urge the republican government into. As regards the first term of our comparison, the unanimous evidence given by the best students of your history does not leave room for any doubt. The striking feature in the process of the building up of your national autonomy has been the constant prevailing of the empirical mood, the entire absence of fanciful apriorism. The right of taking the bulk of its national affairs into its own hands has never been bestowed at once upon the British people as a whole. Everything your ancestors have done in this delicate matter, has been done slowly, gradually, tentatively. With long intervals one class after another has been admitted to active citizenship. And never was the privilege of partaking through parliament in the state's guidance extended to a lower social layer, unless its members were thought to hold sound views upon the public duties, the correct use of their franchise implied. What else is your Upper- House, but a living and acting memento of the enormous length, by which in the said process the Lords of the realm have from the days of

King JOHN out-distanced the minor gentry and the burgesses, not to mention city-artizans and country-labourers? Mark this: we do not hold up those things to your remembrance with a sneer. The contrary is true. Their study always makes us pause with genuine admiration.

Look now at the other side, look at South-Africa The circumstances, under which the franchise-problem has lately forced itself upon the close attention of the Boer-authorities, are exceptionally grave and intricate. New elements of late have considerably swollen the country's population; elements partly of great wealth and might; elements, which by the productiveness of their industry have made its seat the economic centre not only of the Transvaal, but of all the South-African colonies, republics, and territories, taken together; but at the same time: elements, as is shown in a striking way by Mr. ROBINSON'S deposition, that do not quite conform in largeness of view to the type of voters, a new born republic must hope for. You may then scoff as you like at the policy the Volksraad has thought fit to practise in these matters; its hesitations, its niggardness, its stumblings are qualities we are not prepared to defend. But there is one most fatal fault which the leading men in the Republic have hitherto carefully and happily avoided, — we mean the rash haste of dogmatizing theorists. Their leading ideas, as stated by KRÜGER in his conference with the High commissioner, are typical of a prudent politician. And they are typical too.... of the traditional state-craft of Old England. British was the President's

pleading for a policy, which neither takes an obstinate stand, nor ventures upon a step forward without ascertaining all the conditions of the case. British, in principle, was his insistence on this point, that the republican law acknowledges the strict fulfilment of active military duties as a claim to the immediate grant of active civic rights. British too was KRÜGER's advocacy of the second Volksraad and, connected with that, the second class citizenship: a candid experiment, which might, if successfull, result in further grants of gradually increasing liberality. But on the other hand: un British to the core is the appeal on the British side to such a thing as a law of Nature, which, it is pretended, confers the right of franchise upon every tax-payer as such. The correlation, to which that supposed principle alludes, has certainly, since your "magna charta" made a first step in this way, been a favourite watch-word all through the development of your parliamentary system. Yet the endeavour to overawe a foreign government by puffing such a national principle up to the semblance of a universal one savours too much of Jacobin-tactics, to be worthy of the nation of EDMUND BURKE. There may be circumstances indeed, where the fact that you have opened in your country new sources of material welfare forms a strong point for your refusal to pay your scot and lot without having a complete right to vote. But if (and that is the case here) the elder burghers should rightfully answer that they have themselves secured this same country beforehand with their blood by resisting the rapacious raids of savage tribes, so that, if

they had not combated in days gone by, you, moneymakers, would not have even thought of entering the land, should not such an answer considerably lower the tone of your demands?

These arguments however which lie outside the pale of strictly juridical pleading, we only hint at in passing. Our present plea is a plea for justice and for justice only. So, leaving henceforth out of sight all purely-ethical considerations, we shall now at last undertake to prove that justice at least, on all accounts, condemns your present government's South-African policy as a crime.

It is, alas, not the first your statesmen have committed in the southern part of the dark continent. We have in our Dutch literature a well-known prose masterpiece: "the story of Saïdja". It tells the woefully monotonous misfortunes of a poor Javanese peasant, whose only cow is stolen away from him by his native chief, once, twice... at sundry times. How well in harmony with the hopeless monotony of the things is the monotony of the words, where for some pages every new paragraph begins invariably with the selfsame phrase: "And when that "cow too had been taken away from him...." The story of the Boers and the British government reminds one sadly of the tale of Saïdja and his native chief. There too the series of events connected with the names of KEATE and WATERBOER, of THEOPHILUS SHEPSTONE and OWEN LANYON, of RHODES and JAMESON, might well be written in an equally monotonous

way. "When that injustice too had taken place...." and so on. So: if past wrongs give the sufferer a right to threefold courtesy on the part of the doer, the Boers might well have been entitled now to a most courteous treatment by your government. And yet, what has their treatment been?

After the conclusion, we have formerly arrived at, concerning the juridical status of the South-African Republic, we do not want many words to support our assertion as to the injustice of which your colonial secretary is guilty. We have heard International Law proclaim the said Republic, but for the unique restriction imposed upon its freedom by the royal-veto-article, a state as independent as the United kingdom itself. Now, in order to state the question, here before us, more forcibly, let a much stronger state, the Mexican republic for instance, so thriving now under the wise administration of General PORFIRIO DIAZ, for a moment step into the place of her South African sister. Suppose the Government there is anxious to preserve the healthy economic development of the country from being interfered with and led astray and precipitated by the ascendency of cosmopolitan financiers, and so feels justified in withholding from a growing colony of aliens, British subjects for the greater part, facilities for naturalisation, which they loudly crave. Would then your government even think of an intervention, beyond the limits of a friendly hint? Would it have the shadow of a right to do so? Of course not. The manner in which a state chooses to regulate its franchise is entirely and essentially a home-affair. And with regard to these affairs

there is no independent state which may not quite lawfully boast: my house is my castle. Well then, what is the material difference between the case, we have just, for argument's sake, supposed and that which presents itself in alarming press-telegrams from London, Capetown and Pretoria? *There is none.* Are you in doubt? Seek and you will *not* find. That it should be our old acquaintance "Suzerainty", absent from the table-land of Anahuac, but present on the Vaal-banks, is an assertion, which, on account of what has been said above, you may now be asked finally to drop. Then what else could it be? Is it your kingdom's "paramount position", inherent on the South African dominion, but unkown to the American commonwealth south of the Rio Grande? So runs indeed the favorite Imperial terminology, whenever your government thinks fit to advocate the grievances of Johannesburg. Only beware that you are not beguiled by a rhetorical subterfuge. Do not suffer that appeal to paramountcy under a mock disguise to set up in your mind again that self-same suzerainty-claim, which in its nakedness would have deceived you no longer. As it stands there alone, the adjective "paramount" proves nothing to our case; it is an afterdinner-term, entirely out of place with a juridical concept like international tutelage. You waver? Will you attend to this? If your Empire be paramount in South-Africa, in its two republics, as well as in its British colonies, then a fortiori it must be so in your biggest colonies all over the world. Not only in a small community like that of Jamaïca, but in larger ones too

such as your dominion of Canada, or the cluster of colonial states, which cover the inhabitable area of New Holland, Tasmania and New Zealand. And yet, if your colonial secretary should dare to exercise in the internal affairs of one of the latter but half the pressure, which now he tries to bear on the Transvaal, no doubt your own dear colonists of British extraction would to one man set him at defiance, as a transgressor of their indisputable rights.

A single show of argument might still try to impress itself upon your mind. It is the reference to what took place at the Newcastle conferences held in the month of May 1881, previous, that is, to the conclusion of the Pretoria arrangement between Her Majesty's Commissioners and the Representatives of the Boers. The Queen's High Commissioner, as president of the conference once put to the Transvaal delegates the question, whether British subjects resident among the Boers should enjoy and would continue to enjoy *equal privileges with the citizens.* The final answer to that question, as given by Mr. KRÜGER and Dr. JORISSEN, amounted to this: "We make no difference so "far as burgher rights are concerned, only, according to our "law, a new-comer does not get his burgher rights immediately. "According to our old "Grondwet" one had to reside a year in "the country". And after quoting those words, your colonial secretary states that, in spite of the assurances given, all the restrictions as to franchise, under which the Uitlanders suffer, were brought into existence subsequently to the conventions of Pretoria and London.

"Subsequently" indeed, and not without good reason. For only two years after the latter of the two said conventions was concluded an event took place, which changed the face of Transvaal affairs to an extent, no mortal eye could have foreseen three years before. We refer, of course, to the discovery of the gold-treasures of the Rand. Now, first, it is simply unfair to urge upon any one the exact fulfilment of a pledge after a total change of the situation. "Even", so runs the argument of one of your most distinguished authorities in ethical philosophy, "even if a promise has been "made quite freely and fairly, circumstances may alter so "much before the time comes to fulfil it, that the effects "of keeping it may be quite other than those which were "foreseen when it was made. *In such a case probably all "would agree that the promisee ought to release the promiser.*" But secondly, apart from the question of fairness, it is a quite unwarrantable assumption to construe from the aforesaid words a juridical "nexus", whereby the President and Volksraad should ever after be debarred from prolonging the term of residence alluded to beyond the limits of a single year. If promise there was, it was a promise made by men, who — as is emphatically asserted by your Imperial government, — were no party to the instrument drawn up in consequence of those interviews. They were but the receivers of a boon, subject to the conditions, the donor *onesidedly* stated. Their sayings are therefore, on no account whatever, to be smuggled into the text of that one-sided document,

where such an abnormal provision, as the clipping of the Volksraad's wings in matters of franchise legislation would certainly have been, was nowhere mentioned in express terms. And even if that so called promise could be read into the Pretoria agreement, the London convention, which afterwards took its place, is absolutely silent on this point. Neither in the negotations, which preceded its conclusion, nor in the wordings of it preamble and its articles was the franchise-problem even touched on. Finally, not to insist upon this: even if your government were right in speaking of that juridical nexus as existing, such a thing would be a matter for arbitration and not for war-threats.

There remains between both terms of our comparison but one material difference, a highly "material" one indeed, only not such — remember what we said about the principle of international equality and the parallel we drew between Russia and Montenegro — as should have any weight in a juridical argument. It is this; that the Mexican commonwealth is a power of some magnitude, a power, moreover, protected by its big neighbour on account of the Monroe-doctrine, a power, in short, whose hostility your Government would fain avoid, while the Boer-republic is a little state, a stumbling block in the way of that policy of expansion, so popular now amongst some powerful elements of your Unionist majority. We entreat you most earnestly to ponder a minute, in true sincerity of heart, on this inevitable outcome from our inquiry. Every one of you may sometimes have met with

specimens of a sort of men, which, in the language of fable books, we may call "the wolfish type". Just like the wolf, which frisks before the lion, but scolds at the lamb, so those men, while polite in their dealings with equals and superiors, always scoff at the lesser ones, who, unfortunately, happen to come across their path. Have they any proper cause for that behaviour? None, except that they rely on their superior strength and therefore reckon upon impunity. Do not scorn at that unsympathetic type too soon. Change the names, and the tale applies to yourselves, at least to the odious part your leading men bid your grand nation act in its present conflict with the Transvaal. Leave off the vain search for a lawful motive to justify that part to your disquieted conscience. The sham excuses, your minister has adduced to deaden you into moral somnambulism, we have weighed before your eyes and all have been proved wanting. And above all do not bother us with the exigencies of the so-called "respect" which the name of Great Britain ought to command, wherever the Union-jack is hoisted, and which is said to be shaken by the stubbornness of President and Volksraad. No argument sounds more enchanting than this sabre-clashing sentence. Yet no one ought to weigh so little. Even a propos of our conduct towards uncivilised nations, "the honour of the flag" is far too frequently used as a pretext. But where the question involved relates to the position of two Christian neighbours, as in the case of Great Britain and the Transvaal, only one of two issues can be strictly conceived of. On the one hand, you may, by

inspiring your neighbour with a feeling of fear and distrust and anger, acquire for the moment a sense of security; at the least change of the status, however, that security may be converted into insecurity and danger; and at all events that policy fosters a racial feud, most fatal to the development of South Africa as a whole. On the other hand, by developing a cordial loyalty, you may be enabled to rely with absolute confidence upon the hearty co-operation of your Dutch cousins no less than your own British offspring, and by that cooperation insure the welfare of Africa's southern part. If your government persists in the way, it has followed of late, in threatening the Boers, and overawing them, and bullying them, and in exasperating them by shifting its ground at every turn in the course of its negotiations, (not even to speak, by the way, of real violence) then, to the lasting misery of that part of the world, for which you could have been a blessing, you will never attain anything but the sham-security, which was named above. But if, to South Africa's bliss, you want that solid security, which is rooted in genuinely-respectful loyalty both amongst colonists and neighbours, one policy only is capable of giving you that: conquer distrust by justice. Indeed: there is no excuse for violence. There is no avoiding this conclusion: unless you put a stop in time to the fatal course of your supercilious politicians, you will stand convicted before the civilised world side by side with all those workers of injustice, dead or living, who have attempted to crush down their neighbours on no other ground but this, that, on account of their superior forces, they laugh at Nemesis.

What a jarring antinomy the greater part of your daily papers exhibited some time ago before our eyes! While they are almost at a loss to find adequate terms to express their righteous indignation against a handful of French officers who heaped injustice upon one man's head, at the same time they never cease abetting the British public and its government, that they may wrong without a shadow of reason one individual? nay a whole nation. Would it not then befit you to recall at last to your minds the Scriptural saying about the mote and the beam by which our Saviour rebuked the Pharisees of *His* lifetime?

It is a painful task we have discharged. It is always painful to feel obliged to speak strongly of a fellow man's shortcomings. But it is especially so when we have to deal with a party, who up to the present had generally won our profound respect. For in that case we resent our own action as harmful to ourselves. It makes us spiritually poorer, inasmuch as it robs us of one of the objects — never too numerous — we had hitherto been accustomed to hold up to our mind as great examples. And that we had done till now with grand old England. We had been taught to honour your glorious country particularly on two accounts. First: as the champion for the chivalrous principle of free trade, the restorer in modern times of the idea of "pax Romana." The civilised world — a peaceful arena, where every nation should be at liberty to compete fairly with all others, and where the prizes of material

wealth and moral self esteem should be the possession of that party, which in following the peaceful virtues of thrift and energy and foresight and good faith had out-run all its fellows: that was the image presented to our minds as half of the twofold ideal, by which for a century and more your leaders of thought and of politics have up to now enriched the treasury of our common aspirations. And higher still, if possible, we valued the other half. In Old England, as a great German scholar has told us, in Old England we should honour the common teacher of our continent respecting the true spirit of public law. In this too your country was proclaimed the equal of ancient Rome. The Roman people, as our spokesmen said, set up to the world an ever-lasting model of private law and private jurisprudence. But what should be the essence of that other law, which gives a state as such its due and at the same time restrains it from vexatious abuse, that, we were eloquently taught, has been left unto Great Britain to disclose. We credited our teacher's words; we honoured you because of what they said. Fancy then our cruel disappointment, when we saw the object of our twofold respect forsaking, in its South-African policy, the cause of peaceful emulation and of public justice altogether, and preparing to crush by force of arms a quiet neighbour, who in the harmless pursuance of his ends had committed no serious wrong whatsoever. Every man of classical culture remembers the sad moment, when, after having admired ancient Rome as the mighty architect of an empire of peace and just law, he turned upon the scenes

of slow, but sure decay, and inquired into its causes: the presumptuousness of imperial ministers, the arbitrary mood of proconsuls, the greed of financiers and publicans, above all the irresponsible fickleness of the circus-mob. A like feeling of galling grief your late South-African policy has caused us. Only ten times more painful. For, while the, "Romains de la décadence", who wounded us in our boyish enthusiasm, were only phantom-figures, dimmed by the quivering twilight of ages long past, the workers of your government's injustice and their victims are our contemporaries, men and women of flesh and blood, on whom the mid-day-sun of the present moment sheds its all-illuminating rays.

A coincidence in your history strikes us. In running over by heart its noblest passages, we happen once more to stop at the "magna charta", that never to be forgotten moment, from whence the spirit of England's political freedom started upon its long and blessed career. What was it, that stirred up the most illustrious barons of the realm into just rebellion? It was a claim to *"suzerainty"* over their country, put forth from across sea and mountains, and which they held to be a positive wrong. Well, now you have changed places; now it is you that have put forth the unjust claim. Don't you feel as if, by forcibly urging your claim upon the gallant people of the Transvaal, you were casting a blot upon that brightest page in British chronicles, which tells the tale of Runnimeade?

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